

CUSTODY

**United States District Court
District of Massachusetts (Boston)
CRIMINAL DOCKET FOR CASE #: 1:20-mj-06164-MPK All Defendants**

Case title: USA v. Downs
Other court case number: 20-mj-162 Eastern District of New York
Date Filed: 02/21/2020
Date Terminated: 02/24/2020

Assigned to: Magistrate Judge M.
Page Kelley

Defendant (1)

Benjamin Downs
TERMINATED: 02/24/2020
also known as
Biff Dover
TERMINATED: 02/24/2020

represented by **Sandra M. Gant**
Federal Defenders Office
51 Sleeper Street, 5th Flr.
Boston, MA 02210
(617) 223-8061
Email: Sandra_Gant@fd.org
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
*Designation: Public Defender or Community
Defender Appointment*

Pending Counts

None

Disposition

Highest Offense Level (Opening)

None

Terminated Counts

None

Disposition

**Highest Offense Level
(Terminated)**

None

Complaints

18:2252(a)(2) and 2252(b)(1)–
Receipt of Child Pornography

Disposition

Plaintiff

USA

represented by **Philip A. Mallard**

United States Attorney's Office MA

1 Courthouse Way

Suite 9200

Boston, MA 02210

617-748-3674

Email: philip.mallard@usdoj.gov**LEAD ATTORNEY****ATTORNEY TO BE NOTICED***Designation: Assistant US Attorney*

Date Filed	#	Page	Docket Text
02/20/2020			Arrest of Benjamin Downs (Defendant lodged) (Belmont, Kellyann) (Entered: 02/21/2020)
02/21/2020	1		ELECTRONIC NOTICE of Case Assignment as to Benjamin Downs; Magistrate Judge M. Page Kelley assigned to case. (Finn, Mary) (Entered: 02/21/2020)
02/21/2020	2		ELECTRONIC NOTICE OF HEARING for Initial Appearance as to Benjamin Downs. Initial Appearance – Rule 5 set for 2/21/2020 11:15 AM in Courtroom 24 before Magistrate Judge M. Page Kelley. (Belmont, Kellyann) (Entered: 02/21/2020)
02/21/2020	<u>3</u>	4	RULE 5 AFFIDAVIT by USA as to Benjamin Downs by Affiant Cindy A. Wolff (Attachments: # <u>1</u> Copy of warrant) (Belmont, Kellyann) (Entered: 02/21/2020)
02/21/2020	4		Electronic Clerk's Notes for proceedings held before Magistrate Judge M. Page Kelley: Initial Appearance in Rule 5(c)(3) Proceedings as to Benjamin Downs held on 2/21/2020. Court goes over the proceedings and advises the defendant of his right to remain silent, right to counsel, identity hearing and production of the warrant, preliminary hearing, detention hearing and rights under Rule 20. Government states charges and maximum penalties and moves for detention. Defendant submits financial affidavit and Court appoints attorney Gant to represent him. Detention Hearing and Probable Cause hearing set for 2/24/2020 10:00 AM in Courtroom 24 before Magistrate Judge M. Page Kelley. Defendant remanded to custody of USMS. (Attorneys present: Philip Mallard for the government, Sandra Gant for the defendant and Luciana Sousa for Probation.)Court Reporter Name and Contact or digital recording information: Digital Recording. To order a copy of this Digital Recording, please go to http://www.mad.uscourts.gov/attorneys/Magistrate-Audio.htm . For a transcript of this proceeding, contact Deborah Scalfani by email at deborah_scalfani@mad.uscourts.gov . (Belmont, Kellyann) (Entered: 02/21/2020)
02/24/2020	6		Electronic Clerk's Notes for proceedings held before Magistrate Judge M. Page Kelley: Preliminary Hearing and Detention Hearing as to Benjamin Downs held on 2/24/2020. Defendant waives identity hearing and wishes to have the preliminary and detention hearing in the Eastern District of New York. Court has colloquy with defendant and finds the waiver of the hearings knowing and voluntary. Defendant remanded to custody of USMS to be transferred to the Eastern District of New York. Order to issue. (Attorneys present: Philip Mallard for the government, Sandra Gant for the defendant and Erin Henneman for Probation.)Court Reporter Name and Contact or digital recording information:

			Digital Recording. To order a copy of this Digital Recording, please go to http://www.mad.uscourts.gov/attorneys/Magistrate-Audio.htm . For a transcript of this proceeding, contact Deborah Scalfani by email at deborah_scalfani@mad.uscourts.gov . (Belmont, Kellyann) (Entered: 02/24/2020)
02/24/2020	<u>7</u>	6	WAIVER of Rule 5 and 5.1 Hearings by Benjamin Downs (Belmont, Kellyann) (Entered: 02/24/2020)
02/24/2020	<u>8</u>	7	Magistrate Judge M. Page Kelley: ORDER entered. COMMITMENT TO ANOTHER DISTRICT as to Benjamin Downs. Defendant committed to Eastern District of New York. (Belmont, Kellyann) (Entered: 02/24/2020)

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)

v.)

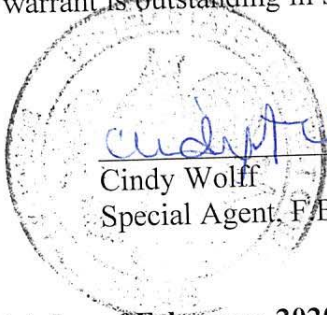
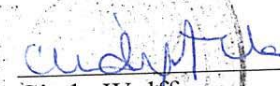
BENJAMIN DOWNS,
a/k/a "Biff Dover")

Defendant.)

Mag. No. 20-MJ-06164-MPK

AFFIDAVIT IN SUPPORT OF FED. R. CRIM P. 5 PROCEEDING

I, Cindy A. Wolff, do hereby make oath before the Honorable M. Paige Kelley, United States Magistrate Judge for the District of Massachusetts, that upon knowledge coming to me in connection with my official duties and as part of the official records of my office, I am advised that there is presently outstanding arrest warrant for one, BENJAMIN DOWNS, concerning a complaint alleging: Receipt of Child Pornography out of the Eastern District of New York, and I do hereby make oath that the aforementioned arrest warrant is outstanding in said District on the basis of the information set out above.



Cindy Wolff
Special Agent, F.B.I.

Subscribed and sworn to before me this 21st day of February, 2020


Hon. M. Paige Kelley
United States Magistrate Judge

AO 442 (Rev. 11/11) Arrest Warrant

UNITED STATES DISTRICT COURT

for the

Eastern District of New York

United States of America
v.BENJAMIN DOWNS,
also known as "Biff Dover"*Defendant*

20 162 M

Case No. 20 - MJ -

ARREST WARRANT

To: Any authorized law enforcement officer

YOU ARE COMMANDED to arrest and bring before a United States magistrate judge without unnecessary delay
(name of person to be arrested) BENJAMIN DOWNS, also known as "Biff Dover",
who is accused of an offense or violation based on the following document filed with the court:

☐ Indictment ☐ Superseding Indictment ☐ Information ☐ Superseding Information ☒ Complaint
☐ Probation Violation Petition ☐ Supervised Release Violation Petition ☐ Violation Notice ☐ Order of the Court

This offense is briefly described as follows:

Receipt of Child Pornography (18 U.S.C. §§ 2252(a)(2) and 2252(b)(1))

Date: 02/14/2020City and state: Central Islip, New York



Issuing officer's signature

Hon. Arlene R. Lindsay, U.S. Magistrate Judge

Printed name and title

Return	
This warrant was received on (date) _____, and the person was arrested on (date) _____	
at (city and state) _____	
Date: _____	_____
	Arresting officer's signature

	Printed name and title

UNITED STATES DISTRICT COURT

for the

DISTRICT OF MASSACHUSETTS

United States of America

v.

BENJAMIN DOWNS

Defendant

Case No. 20-mj-6164-MPK

Charging District's Case No.

WAIVER OF RULE 5 & 5.1 HEARINGS
(Complaint or Indictment)I understand that I have been charged in another district, the (name of other court) EASTERN
DISTRICT OF NEW YORK


I have been informed of the charges and of my rights to:

- (1) retain counsel or request the assignment of counsel if I am unable to retain counsel;
- (2) an identity hearing to determine whether I am the person named in the charges;
- (3) production of the warrant, a certified copy of the warrant, or a reliable electronic copy of either;
- (4) a preliminary hearing to determine whether there is probable cause to believe that an offense has been committed, to be held within 14 days of my first appearance if I am in custody and 21 days otherwise, unless I have been indicted beforehand.
- (5) a hearing on any motion by the government for detention;
- (6) request a transfer of the proceedings to this district under Fed. R. Crim. P. 20, to plead guilty.

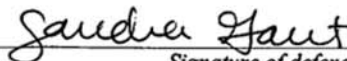
I agree to waive my right(s) to:

- ☐ an identity hearing and production of the warrant.
- ☐ a preliminary hearing.
- ☐ a detention hearing.
- ☒ an identity hearing, production of the judgment, warrant, and warrant application, and any preliminary or detention hearing to which I may be entitled in this district. I request that my
☒ preliminary hearing and/or ☒ detention hearing be held in the prosecuting district, at a time set by that court.

I consent to the issuance of an order requiring my appearance in the prosecuting district where the charges are pending against me.

Date: 2/24/20


Defendant's signature



Signature of defendant's attorney

SANDRA GANT

Printed name of defendant's attorney

UNITED STATES DISTRICT COURT

for the

Eastern District of New York

United States of America)

v.)

Case No. 1:20-mj-6164)

Benjamin Downs)

Charging District's)

Defendant) Case No. 20-162

COMMITMENT TO ANOTHER DISTRICT

The defendant has been ordered to appear in the Eastern District of New York,
 (if applicable) _____ division. The defendant may need an interpreter for this language:
 _____.

The defendant: ☐ will retain an attorney.

☒ is requesting court-appointed counsel.

The defendant remains in custody after the initial appearance.

IT IS ORDERED: The United States marshal must transport the defendant, together with a copy of this order, to the charging district and deliver the defendant to the United States marshal for that district, or to another officer authorized to receive the defendant. The marshal or officer in the charging district should immediately notify the United States attorney and the clerk of court for that district of the defendant's arrival so that further proceedings may be promptly scheduled. The clerk of this district must promptly transmit the papers and any bail to the charging district.

Date: 2/24/2020

 Kelley
 Judge's signature
M. Page Kelley, United States Magistrate Judge
 Printed name and title